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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

JEFFREY SCOTT JEFFERSON,

Defendant and Appellant.

C080844

(Super. Ct. No. 14F07208)

After his motion to suppress evidence was denied, defendant Jeffrey Scott Jefferson pled no contest to possession of cocaine while armed with a loaded firearm. On appeal, defendant contends the magistrate erred in denying his motion to suppress because there is no substantial evidence to show the police had reasonable suspicion that his rear license plate was not clearly legible from 50 feet away. We disagree and affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On October 10, 2014, Sacramento Police Officer Jyotis Hasegawa was on patrol in the area of Center Parkway and Bamford Drive. At approximately 8:00 p.m., he saw a

car driven by defendant in front of him on Center Parkway. Officer Hasegawa could not read the car's rear license plate from 50 feet away because the license plate lamp was dim. Officer Hasegawa confirmed that the car's license plate lamp was dim by examining the car's license plate with his headlights turned off. Officer Hasegawa was later able to read the license plate when he drove his car from a distance of 10 to 15 feet away from defendant's car. Officer Hasegawa then stopped defendant because of the car's dim license plate lamp.

During the stop, defendant told Officer Hasegawa that he had two marijuana joints in the car. Officer Hasegawa then placed defendant in his patrol car. A subsequent search of the car revealed a loaded handgun, three plastic bags of cocaine, a digital scale, and \$240 in cash.

Defendant moved to suppress the evidence from the traffic stop. Video from Officer Hasegawa's in-car camera was played for the magistrate. On cross-examination, Officer Hasegawa acknowledged that the license plate lamps appeared operable on certain frames of the in-car camera footage. He was able to read defendant's license plate at some point because he ran a record check on defendant's car. He also admitted his probable cause statement stated the license plate lamps were inoperable even though his police report said the lamps were dim. Finally, when he pulled defendant over, he told defendant it was because his license plate lamp was not working.

The magistrate (Judge Shelleyanne Chang) found reasonable suspicion for the stop and denied the motion to suppress. In reviewing the in-car camera video, the magistrate found the footage did not appear to capture the actual condition of the license plate. The screenshots from the in-car camera footage offered by defendant appeared to be taken while his car was directly under a street lamp or while Officer Hasegawa's headlights were shining on the rear of defendant's car. Additionally, the magistrate did not find Officer Hasegawa's inconsistency regarding whether the license plate lamps were inoperable or dim was sufficient to render the stop invalid.

Defendant renewed the motion to suppress before the trial court (Judge Laurel White). The trial court affirmed the magistrate's order. After the motion was denied, defendant pled no contest to the cocaine possession charge. The trial court sentenced him to two years in prison.

DISCUSSION

On appeal, defendant argues there was no substantial evidence to support the magistrate's denial of the motion to suppress because there were factual inconsistencies regarding whether the license plate lamp was either inoperable or dim and regarding the distance from which Officer Hasegawa was able to read the license plate. Specifically, defendant argues that the officer's ability to see the license plate to report the license to dispatch indicates a lack of reasonable suspicion. He also points out there were varying distances where the license plate was clearly legible, yet the probable cause statement said the lights were inoperable. Defendant argues these factual inconsistencies supported no more than an inchoate and unparticularized suspicion or hunch that should be reviewed independently.

In reviewing a ruling on a motion to suppress, we defer to the trial court's factual findings, express or implied, when supported by substantial evidence, but we exercise our independent judgment in determining whether, on the facts so found, the search or seizure was lawful. (*People v. Redd* (2010) 48 Cal.4th 691, 719.) Because defendant contests the factual finding that Officer Hasegawa was unable to view the license plate from 50 feet away, we review for substantial evidence. We conclude there is substantial evidence to support the trial court's finding.

"When a trial court's factual determination is attacked on the ground that there is no substantial evidence to sustain it, the power of an appellate court *begins and ends* with the determination as to whether, *on the entire record*, there is substantial evidence, contradicted or uncontradicted, which will support the determination, and when two or more inferences can reasonably be deduced from the facts, a reviewing court is without

power to substitute its deductions for those of the trial court. *If such substantial evidence be found, it is of no consequence that the trial court believing other evidence, or drawing other reasonable inferences, might have reached a contrary conclusion.*” (*Bowers v. Bernards* (1984) 150 Cal.App.3d 870, 873-874.)

Vehicle Code section 24601 requires that the rear license plate of a car must be illuminated so as to “render it clearly legible from a distance of 50 feet to the rear.” Here, Officer Hasegawa testified that he could not read defendant’s license plate at 50 feet. This is sufficient evidence to uphold the trial court’s ruling. (See *In re Frederick G.* (1979) 96 Cal.App.3d 353, 366 [“[t]he testimony of a single witness is sufficient to uphold a judgment even if it is contradicted by other evidence, inconsistent or false as to other portions”].)

Defendant points to inconsistencies from Officer Hasegawa’s testimony regarding whether the light was dim or inoperable. However, a determination of Officer Hasegawa’s credibility rests with the trial court. (*People v. Huston* (1943) 21 Cal.2d 690, 693 [“testimony which is subject to justifiable suspicion do[es] not justify the reversal of a judgment, for it is the exclusive province of the trial judge or jury to determine the credibility of a witness and the truth or falsity of the facts upon which a determination depends”].) The circumstances in which an appellate court may properly decline to credit testimony are exceptional and rare. (*People v. Ennis* (2010) 190 Cal.App.4th 721, 728-732.) “Testimony may be rejected only when it is inherently improbable or incredible, i.e., ‘“unbelievable *per se*,” ’ physically impossible or ‘ “wholly unacceptable to reasonable minds.” ’ ” (*Oldham v. Kizer* (1991) 235 Cal.App.3d 1046, 1065.) No such circumstances exist or are asserted here. Thus, substantial evidence supports the trial court’s reasonable suspicion finding, and the motion to suppress was properly denied.

DISPOSITION

The judgment is affirmed.

/s/
Robie, J.

We concur:

/s/
Nicholson, Acting P. J.

/s/
Butz, J.